

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 99-4354

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

AHMAD MIZANI, a/k/a Eddie Slater, a/k/a Omid
Mizani, a/k/a Eddie Mizani,

Defendant - Appellant.

Appeal from the United States District Court for the District of
Maryland, at Greenbelt. Alexander Williams, Jr., District Judge.
(CR-98-126-AW)

Submitted: October 20, 1999

Decided: December 15, 1999

Before WILKINS, NIEMEYER, and WILLIAMS, Circuit Judges.

Affirmed by unpublished per curiam opinion.

John M. Quinn, Michael J. McAuliffe, QUINN, MCAULIFFE, ROWAN &
MCLINDON, Rockville, Maryland, for Appellant. Lynne A. Battaglia,
United States Attorney, Jan Paul Miller, Assistant United States
Attorney, Greenbelt, Maryland, for Appellee.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Ahmad Mizani pled guilty to one count of filing a false tax return, 26 U.S.C. § 7206(1) (1994) for which he was sentenced to thirty months imprisonment. He appeals, claiming that the district court clearly erred in calculating tax loss because the government failed to deduct business expenses other than cost of goods sold in arriving at gross income. Under the federal sentencing guidelines, gross income is determined without regard to any deductions that would have been available had the taxpayer filed a proper return. See U.S. Sentencing Guidelines Manual § 2T1.3 (1992). See also United States v. Valentino, 19 F.3d 463, 464-65 (9th Cir. 1994) (in calculating gross income for purposes of determining tax loss, unclaimed deductions such as depreciation are not to be taken into account); United States v. Harvey, 996 F.2d 919, 920 (7th Cir. 1993). Accordingly, the district court did not clearly err in failing to take into account other deductions which Mizani might have been entitled to had he filed proper returns. See United States v. Daughtrey, 874 F.2d 213, 217 (4th Cir. 1989) (factual findings reviewed for clear error).

We therefore affirm Mizani's sentence. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

AFFIRMED